

RESOLUTION NO. PC-2021-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE FOR CODE AMENDMENT CO-2021-01 AMENDING CHAPTER IX, ARTICLE 21 AND CHAPTER IV, TABLE 13-30 OF TITLE 13 TO ESTABLISH THE DEVELOPMENT STANDARDS FOR CANNABIS USES, INCLUDING RETAIL CANNABIS STOREFRONT AND NON-STOREFRONT USES AND ORDINANCE NO. 2021-X2 AMENDING CHAPTER I, ARTICLE 5, CHAPTER II, ARTICLE 1 AND CHAPTER VI OF TITLE 9 OF THE COSTA MESA MUNICIPAL CODE, TAXATION, REGULATION AND OPERATING REQUIREMENTS FOR RETAIL CANNABIS USES TO ESTABLISH THE TAX RATE, OPERATING REQUIREMENTS AND STANDARDS FOR CANNABIS USES, INCLUDING RETAIL CANNABIS STOREFRONT AND NON-STOREFRONT USES, IN ORDER TO IMPLEMENT THE CITY OF COSTA MESA RETAIL CANNABIS TAX AND REGULATION MEASURE (MEASURE Q)

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, on November 8, 2016, concurrent with the passage of State Proposition 64, city voters approved the "City of Costa Mesa Medical Marijuana Measure", also known as "Measure X";

WHEREAS, Measure X allows non-retail cannabis uses only including distributors, manufacturers, processors, research and development laboratories, and testing laboratories;

WHEREAS, Measure X cannot be amended if the amendments are related to dispensaries, delivery, cultivation or the specific area within the City where cannabis businesses may be located. Such amendments must be approved by the voters through a separate ballot measure;

WHEREAS, on July 21, 2020, the City Council voted to place a ballot measure for the 2020 General Election asking city voters whether or not to allow retail cannabis storefront (dispensaries) and non-storefront (deliveries) businesses in the City;

WHEREAS, on November 3, 2020, city voters approved the "City of Costa Mesa Retail Cannabis Tax and Regulation Measure", also known as, Measure Q;

WHEREAS, Measure Q authorizes the City Council to adopt an ordinance which permits and regulates retail cannabis storefront (dispensaries) and non-storefront (deliveries) businesses;

WHEREAS, Measure Q authorizes the City Council to impose a four-percent (4%) to seven-percent (7%) gross receipts tax on retail cannabis businesses. In addition, Measure Q requires retail cannabis businesses to meet certain operating requirements including permitted zones, minimum of 1,000 feet from sensitive uses such as schools, childcare centers, playgrounds and homeless shelters, security measures, and labor peace agreement for businesses with two or more employees;

WHEREAS, a Zoning Code Amendment and an Ordinance are necessary to implement Measure Q and establish the minimum operating requirements and development standards in the Costa Mesa Municipal Code to tax, review, and regulate retail cannabis storefront and non-storefront businesses operating in the City;

WHEREAS, Chapter I (Business Tax), Article 5 (Administration, Application and Procedures) of Title 9 (Licenses and Business Regulations) contains the tax rate for cannabis businesses; Chapter II (Regulation of Certain Businesses), Article 1 (Generally) of Title 9 includes regulations and processes for revocation and/or suspension of business licenses and certain permits; and Chapter VI of Title 9 pertaining specifically to cannabis business permits;

WHEREAS, Ordinance No. 2021-X2 which amends Title 9 to implement Measure Q is not a Zoning Ordinance, the words defined in Chapter VI of Title 9 are applicable to Chapter IX (Special Land Use Regulations), Article 21 (Location of Marijuana Distributing, Manufacturing, Research and Development and Testing Laboratories), of Title 13 (Planning, Zoning and Development), such that review and recommendation by the Planning Commission thereon is appropriate;

WHEREAS, Chapter IX (Special Land Use Regulations), Article 21 (Location of Marijuana Distributing, Manufacturing, Research and Development and Testing Laboratories), Section 13-200.92 of Title 13 (Planning, Zoning and Development) contains permitted zones and planning application requirements for cannabis distribution, manufacturing, research and development, and testing laboratory uses. Chapter IV

(Citywide Land Use Matrix), Table 13-30 (Land Use Matrix) of Title 13 prohibits retail cannabis sales;

WHEREAS, the proposed amendments to Chapter IX, Article 21 would add *inter alia* a new section, Section 13-200.93, to establish the permitted zones, planning application requirements, separation requirements from sensitive uses, and specific development standards for dispensaries and deliveries. The proposed amendment to Table 13-30 (Land Use Matrix) would revise cannabis retail sales from prohibited to conditionally permitted with a MCUP as well as include another cannabis retail sales land use category for non-storefront;

WHEREAS, the Planning Commission recommends that the following sections of the Costa Mesa Municipal Code be amended to implement Measure Q and establish the minimum operating requirements and development standards to tax and regulate retail cannabis storefront and non-storefront businesses as well as make other textual revisions as set forth in Code Amendment 21-01 and Ordinance No. 2021-X2:

- Chapter I (Business Tax), Article 5 (Administration, Application and Procedures) of Title 9 (Licenses and Business Regulations);
- Chapter II (Regulation of Certain Businesses), Article I (Generally) of Title 9;
- Chapter VI (Marijuana Business Permits) of Title 9;
- Chapter IX (Special Land Use Regulations), Article 21 (Location of Marijuana Distributing, Manufacturing, Research and Development and Testing Laboratories) of Title 13 (Planning, Zoning and Development); and
- Chapter IV (Citywide Land Use Matrix), Table 13-30 (Land Use Matrix) of Title 13;

WHEREAS, the Zoning Code Amendment and Ordinance No. 2021-X1 have been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures. The Zoning Code Amendment has been found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Section 15308 (Class 8, Actions by Regulatory Agencies for the Protection of the Environment) because a recommendation is not a final action and the recommended ordinance will not have a significant effect on the environment. The Zoning Code Amendment is also exempt pursuant to CEQA Guidelines Section 15301 (Class 1, Existing

Facilities), Section 15303 (Class 3, New Construction or Conversion of Small Structures), and Section 15332 (Class 32, In-fill Development Projects) because future construction for retail cannabis businesses will largely be within existing buildings for interior tenant improvements or involve minor new construction projects that will also not have a significant effect on the environment;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 22, 2021 with all persons having the opportunity to speak for and against the proposed Code Amendment;

WHEREAS, the Planning Commission continued the Code Amendment agenda item to a date certain for their regular meeting date on March 22, 2021;

WHEREAS, on March 22, 2021, Planning Commission continued their public hearing and discussion of the proposed Code Amendment;

NOW THEREFORE, THE COSTA MESA PLANNING COMMISSION RESOLVES AS FOLLOWS:

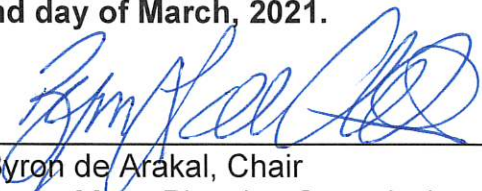
1. The Code Amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures. The Code Amendment has been found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Section 15308 (Class 8, Actions by Regulatory Agencies for the Protection of the Environment) because a recommendation is not a final action and the recommended ordinance will not have a significant effect on the environment. The Code Amendment is also exempt pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities), Section 15303 (Class 3, New Construction or Conversion of Small Structures), and Section 15332 (Class 32, In-fill Development Projects) because future construction for retail cannabis businesses will largely be within existing buildings for interior tenant improvements or involve minor new construction projects that will also not have a significant effect on the environment.
2. The Planning Commission finds that the provisions of the Code Amendment and Ordinance No. 2021-X2 are consistent with the City of Costa Mesa's General Plan;

3. The Planning Commission recommends that the City Council give first reading to Ordinance No. 2021-X2 amending the following provisions of the Costa Mesa Municipal Code:
 - Chapter I (Business Tax), Article 5 (Administration, Application and Procedures) of Title 9 (Licenses and Business Regulations);
 - Chapter II (Regulation of Certain Businesses), Article I (Generally) of Title 9;
 - Chapter VI (Marijuana Business Permits) of Title 9;
4. The Planning Commission recommends that the City Council give first reading to Ordinance No. 2021-X1 for Zoning Code Amendment No. 21-01 amending Chapter IX (Special Land Use Regulations), Article 21 (Location of Marijuana Distributing, Manufacturing, Research and Development and Testing Laboratories) of Title 13 (Planning, Zoning and Development) and Chapter IV (Citywide Land Use Matrix), Table 13-30 (Land Use Matrix) of Title 13 of the Costa Mesa Municipal Code with the following recommended revisions:
 - Defer to the State's definitions for sensitive uses listed in Measure Q;
 - Defer to the State's definition and separation requirement for youth centers;
 - Require a CUP for all cannabis retail uses (storefronts and non-storefronts) and an MCUP for existing Measure X operators to amend their approved CUP to add a non-storefront use to their business;
 - Require 500-foot separation between retail storefronts;
 - Reduce the period of illegal cannabis sales activity preceding the submittal of an application under Measure Q from five years to 180 days; and
 - Remove Footnote No. 11 under the Land Use Matrix, which prohibited sensitive uses from locating within required separation distances of a permitted cannabis storefront.

BE IT FURTHER RESOLVED that the CEQA exemptions reflect the independent judgement of the Planning Commission;

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 22nd day of March, 2021.



Byron de Arakal, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Jennifer Le, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2021-05 was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on March 22, 2021 by the following votes:

AYES: de Arakal, Russell, Toler, Zich

NOES: Colbert, Stephens

ABSENT: None

ABSTAIN: Tourje



Jennifer Le, Secretary
Costa Mesa Planning Commission